

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P. (C.) No.10907/2009**

% **Date of Decision: 12.01.2010**

Delhi Development Authority ..... Petitioner  
Through Ms.Ansuya Salwan, Advocate

Versus

Shri R.V. Bansal ..... Respondent  
Through Nemo.

**CORAM:**

**HON'BLE MR. JUSTICE ANIL KUMAR**

**HON'BLE MR. JUSTICE MOOL CHAND GARG**

- |    |                                                                       |     |
|----|-----------------------------------------------------------------------|-----|
| 1. | Whether reporters of Local papers may be allowed to see the judgment? | YES |
| 2. | To be referred to the reporter or not?                                | NO  |
| 3. | Whether the judgment should be reported in the Digest?                | NO  |

**ANIL KUMAR, J.**

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The petitioner, Delhi Development Authority, impugns the order dated 29<sup>th</sup> February, 2008 passed by the Central Administrative Tribunal, Principal Bench, New Delhi in TA No.151 of 2007, titled Shri R.V. Bansal v. DDA whereby the memorandum of charges issued to the respondent was set aside and it was held that the respondent is deemed to have retired normally and granting all the consequential benefits to him.

The respondent had filed a writ petition before this court claiming that the charge sheet issued to him and the proposed inquiry against

him was illegal. The respondent was an Assistant Engineer. He has since retired after attaining the age of superannuation. The respondent was originally appointed with Municipal Corporation of Delhi and later on came to Delhi Development Authority and was promoted as an Assistant Engineer in 1982. He was in-charge of specific work relating to construction of MIG houses during the period March, 1982 to December, 1982.

relating to construction of MIG houses, a memorandum of charge had been issued to him on 20<sup>th</sup> July, 1989, seven years after he was transferred from the said work alleging that while working as Assistant Engineer for the period March 1982 to December 1982, the work under his supervision was improper and defective and the petitioner had to shell out funds in favour of the contractors on account of the defective work. Though the respondent filed a prompt reply but no further proceedings had been initiated against the respondent till 1992. An inquiry officer had been appointed to look into the charges in 1992 only. This has not been disputed that the Chief Engineer had submitted his finding in respect of alleged defective work on 5<sup>th</sup> March, 1983 and on 27<sup>th</sup> July, 1983 an explanation was called from the respondent which was promptly replied by him.

Learned counsel for the petitioner has filed an affidavit of Shri Alok Swarup, Director (Vigilance), stipulating that considering the

findings on 3<sup>rd</sup> February, 1984, the matter was referred to the Vigilance Commission, however, from 1984 to till 1989 nothing was done and on 20<sup>th</sup> July, 1989, major penalty chargesheet was issued after five years. Again reply was filed by the respondent, however, for another two years inquiry officer was not appointed. On 10<sup>th</sup> January, 1992, an officer of CVC was appointed as an investigating officer and thereafter different investigating officers were appointed.

From the affidavit filed by the petitioner, it is also revealed that the respondent had filed a writ petition on 20<sup>th</sup> July, 1993 challenging the competency of the Vice Chairman, DDA, to act as a disciplinary authority which petition was dismissed on 20<sup>th</sup> July, 1994. In another petition filed by the respondent, by order dated 14<sup>th</sup> December, 1993, the petitioner was allowed to continue with the inquiry, however, petitioner was directed not to pass the final order.

The Tribunal has considered these facts and relying on the precedents of the Supreme Court and the fact that no proper explanation has been given by the petitioner for the delay in initiating the enquiry against the respondent has quashed the proceedings. The Tribunal has also considered and held that the nature of allegation also reflects that lack of supervision cannot be imputed to the respondent on the basis of the material produced by the petitioner, as even the

chargesheet indicated that Junior Engineer was in-charge of work and the respondent was having only a supervisory role.

Learned counsel for the petitioner is unable to give any cogent reason for delay. Even the additional affidavit dated 6<sup>th</sup> October, 2009 filed pursuant to the direction of the Court does not explain the delay except giving various dates on which the actions were taken by the petitioner and their officials. Why the delay took place has not been explained nor any reasons given.

Considering the totality of facts and circumstances, the petitioner had failed to make out any illegality or such irregularity in the order of the Tribunal dated 29<sup>th</sup> February, 2008 which would require interference by this Court in exercised of its jurisdiction under Article 226 of the Constitution of India.

The writ petition is, therefore, without any merit and it is dismissed.

**ANIL KUMAR, J.**

**January 12, 2010**  
'anb/Dev'

**MOOL CHAND GARG, J.**